* * * * * * * * * * * FINDINGS OF FACT AND CONCLUSIONS OF LAW The Petitioner herein requests a special hearing to approve the nonconforming use of the subject property as a four unit apartment building in a D.R. 10.5 zone as more particularly described in Petitioner's Exhibits 1.

IN RE: PETITION FOR SPECIAL HEARING

(2513 Yorkway)

NE/S Yorkway 545' NW c/l

12th Election District

7th Councilmanic District

Contract Purchaser: Landex Corp.

et ux

Legal Owner: Ronald Gajewski

The Petitioner, by the Contract Purchaser, Landex, Inc., represented by David G. Johnston, appeared, testified and was represented by John B. Gontrum, Esquire. Also appearing and testifying on behalf of the Petition were Griffith Davis, a land owner, and Douglas Kennedy, a registered professional engineer, with KCW Consultants, Inc., who prepared Petitioner's Exhibit 1. Petitioner's Exhibit 1 contains additional notations placed thereon by the attorney for the Petitioner which Mr. Kennedy agrees are correct. The current property owner, Mr. Ronald Gajewski, appeared and testified. There were no Protestants.

* ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 89-249 SPH

Testimony indicated that the subject property, known as 2513 Yorkway, was improved by a four unit apartment building in 1943 or 1944. Testimony indicated that there are two units on the first floor of the building and two units on the second floor. The remaining portion of the basement is improved with storage and utility space. The subject property

property known as 2513 Yorkway as a four unit apartment building in a D.R.

10.5 zone as more particularly described in Petitioner's Exhibit 1, be and

Zoning Commissioner of Baltimore County

cc: Peoples Counsel

the same is hereby GRANTED.

John B. Gontrum, Esquire, 809 Eastern Boulevard, Essex, Md. 21221

ley. Tax records submitted into evidence show that the subject building has been assessed and transferred over the years as at least a four unit apartment building continuously and without interruption since approximately 1944. Testimony and evidence presented substantiates that the building was originally constructed as a four unit apartment building and has been used consistently as a four unit apartment building since its original development. The evidence tends to indicate the subject property was zoned "D" residential during the 1945 Baltimore County Comprehensive Zoning. The evidence further establishes that the exterior parameters of the building have not changed or been altered since the original construc-This building is one of a group that was found to be nonconform-

is serviced by a rear parking area which is accessed off of a common al-

ing in a matter before the County Board of Appeals of Baltimore County in case #77-142-V and C-77-258. In that case the Board of Appeals found that 2511 Yorkway, which is next door to the subject property in the same group of buildings, was a nonconforming six (6) unit apartment house. The evidence tends to establish that all of this group of apartment buildings were built at the same time. The group of apartment buildings appear to be one uniform structure. I, therefore, find that the evidence that applies to the previous Board of Appeals matter will apply to all of the buildings in this group.

Numerous other cases have been considered over the years for nonconforming use in the immediate vicinity. Affidavits from those cases also were introduced by Petitioner and indicate that the Yorkway units were all built at about the same time in 1943 or 1944 as four unit apartment buildings. Over the years some buildings have added additional units

in the basement area. In almost every case, without exception, nonconforming uses have been granted for at least four units. Case No. 89-103-SPH was decided in September, 1988 for 2532 Yorkway for a similar building in the next block. Additionally, Case Nos. 88-14-SPH and 86-290-SPH found that nonconforming uses existed for at least four apartments since prior to 1945. In the instant case, the Petitioner requests a nonconforming use for the original four apartment units only.

The first issue to be determined in a nonconforming use case is whether or not the property in question was legally and permissibly developed prior to the statutory change which created the alleged nonconforming status. The four unit apartment building in the instant case was constructed prior to the adoption of the 1945 zoning regulations. This property is often referred to by the Petitioner and in this Opinion as an apartment building. This building is an apartment house as that term was defined in the original 1945 Baltimore County Zoning Regulations (B.C.Z.R.). That term was then defined as:

> "A detached building used and/or arranged for occupancy as dwellings for three or more families as separate housekeeping units. All such housekeeping units shall have unity in use and be supplied, in common, with heat, sewerage and/or other public convenience or utilities."

There is evidence of heat and public utilities in common and an acceptable number of units. Therefore, the building does comply with the "D" residential zoning placed on the land on January 2, 1945 for an apartment house because "D" residential permitted all uses in "C" residential. "C" residential permitted apartment houses. The Petitioner has established that the building existed prior to January 2, 1945 or the beginning of zoning regulations. The building was also in compliance with the zoning from January 2, 1945 thru 1955 when the zoning was changed.

The second principal to be applied, as specified in Section 104.1, is whether or not there has been a change in the use of the property. A determination must be made as to whether or not any change that has occurred is a different use and therefore breaks the continued nature of the nonconforming use. If the change in use is found to be different than the original use, the current use of the property shall not be considered nonconforming. See McKemy v. Baltimore County, Md., 39 Md. App. 257, 385 A2d. 96 (1978).

Clearly, the use of the subject property has not changed since 1944. The property has always been a four unit apartment building and there have been no changes or interruptions in that use. The subject property was also in compliance with the original "D" residential zoning for an apartment house for four (4) apartment units. The evidence establishes that this property was built and used as an apartment house prior to 1945 and has continued until present.

The Petitioner does not claim an expansion of this use beyond the original four apartments. The evidence establishes the apartments in the subject building have been occupied continuously and without interruption since approximately 1944 and, therefore, are nonconforming.

Pursuant to the advertising, posting of the property and public hearing held and for reasons given above, the Petition for Special Hearing

THEREFORE, IT IS ORDERED, by the Zoning Commissioner of Baltimore County, Maryland, this 29th day of December 1988 that the Petition for Special Hearing to approve the nonconforming use of the subject

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

December 29, 1988



Community Development Administration 45 Calvert Street Annapolis, Maryland 21401

Benton Mortgage Company 5731 Lyons View Drive Nashville, Tennessee 37919

RE: Yorkway Apartments

Gentlemen:

I have this day taken testimony and evidence with respect to the following Yorkway Apartment Buildings:

2513 Yorkway 2515 Yorkway 2517 Yorkway 2519 Yorkway 2521 Yorkway 2506 Yorkway 2611 Yorkway 2613 Yorkway 2625 Yorkway 2605 Yorkway 2607 Yorkway 2627 Yorkway 2629 Yorkway 2504 Yorkway 2510 Yorkway 2511 Yorkway

Based on the testimony and evidence presented, I am issuing findings of fact and conclusion of law indicating that these buildings all have legal nonconforming uses as four unit apartment buildings.

December 29, 1988 page 2....

The following properties 2609 Yorkway, 2619 Yorkway, 2527 Yorkway and 2529 Yorkway have all previously been found to have legal nonconforming uses. To my knowledge, there are no zoning violations outstanding on any of these buildings, and they may continue as four unit apartment buildings in conformance with the laws and regulations of Baltimore County.

> Very traly yours. J. Recent Jainie

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines



John B. Gontrum, Esquire 809 Eastern Boulevard Essex, Maryland 21221

> RE: Petition for Special Hearing Case #89-249-SPH Contract Purchaser: Landex Corporation Legal Owner: Ronald Gajewski, et ux

Dear Mr. Gontrum:

Enclosed please find the decision rendered on the above captioned case. The Petition for Special Hearing has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 494-3391.

> Very truly yours, Robert Haires Robert Haines Zoning Commissioner

cc: Peoples Counsel

ZCNING COMMISSIONER OF BALTIMORE COUNTY LANDEX CORPORATION Case Nos. 89-249-SPH thru 89-264-SPH

REQUEST FOR SUBPOENA DUCES TECUM

Mr. Clerk: You are requested to issue a Subpoena Duces Tecum to:

Edward A. Crook Resident Agent for Baltimore Gas & Electric Co. Liberty and Lexington Street Baltimore, Maryland 21201

to produce monthly billing statements for all apartments in buildings 2504, 2506, 2510, 2511, 2513, 2515, 2517, 2519, 2521, 2605, 2607, 2611, 2613, 2619, 2625, 2627, and 2629 Yorkway, Dundalk, Maryland, from the initial date of service to present for a hearing beginning at 9:00 a.m. on Thursday, December 29, 1988, Room 200, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland 21204.

> Romadka, Gontrum, & Hennegan 809 Eastern Boulevard Essex, Maryland 21221

686-8274 Attorney for Landex Corporation

Mr. Sheriff/Private Process Server Please process in accordance with Zoning Commission Rule IV (c).

ROMADKA. GONTRUM & HENNEGAN

ESSEX, MARYLAND

| | • | | . John | |
|--|--|---|--|-------------------------|
| | PETITION FOR | SPECIAL HEARI | #2513-ite
f 7 #2515-ite
f 7 #2517-ite
f 2519-ite
f 2521-item | m-217
n-218
n-219 |
| | TO THE ZONING COMMISSIONER OF BA The undersigned, legal owner(s) of the described in the description and plat attach Special Hearing under Section 500.7 of the lather or not the Zoning Commissioner and/o as a legal non-conforming use the features. | ne property situate in Baltimore
led hereto and made a part hereof
Baltimore County Zoning Regulation | County and which is , hereby petition for a ons, to determine whe- | |
| | as a legal non-conforming use the f
apartments) located on Yorkway, Bal | Ollowing buildings (each wi | th four | |
| | #2517, #2519, #2521) | | | |
| | Property is to be posted and advertise
I, or we, agree to pay expenses of the ab-
ing of this Petition, and further agree to and
tions of Baltimore County adopted pursuant t | ove Special Hearing advertising | Mosting ata was si | |
| | | | y declare and affirm, of perjury, that I/we | |
| | Contract Purchaser: | Legal Owner(s): | MAP S | E HE |
| | Judith S. Siegel, President (Tree or Print Name) | Ronald Gajewski, et. (Type or Frint Name) | E. D | 12H |
| | Signature Landex Corporation 250 Centerville Road, Bldg. 6 Address | Signature Signature | jewski 288 ₂ | 4372
2.F. |
| | Address Warwick, R.I. 02886 City and State | (Type or Print Name) | 1000_ | BF |
| | Attorney for Petitioner: | Signature | DP | |
| | John Gontrum (Type of Print Name) | 7713 Charlesmont Road | There W. | |
| Ø 1 | Signature | Baltimore, Maryland City and State | Phone No. 21222 | |
| THE CEIVED FOR THING | 809 Eastern Blvd. Address Essex, Md. 21221 | Name, address and phone numbe tract purchaser or representative | r of legal owner, con- | |
| C C | City and State | Name | | |
| JEIVE | Attorney's Telephone No.: 301-686-8274 | Address | Phone No. | |
| | ORDERED By The Zoning Commissioner of of, 19, that the required by the Zoning Law of Baltimore County | f Baltimore County, this | day | |
| െ മ | required by the Zoning Law of Baltimore Count out Baltimore County, that property be posted, a Commissioner of Baltimore County in Room 1 County, on the day ofM. | 106, County Office Building in T | before the Zoning
lowson, Baltimore | |
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SPECIAL HEARING: Nonconforming use of 2513 Yorkway (four apartments).

In the event that this Petition is granted, a building permit may be

Commissioner will, however, entertain any request for a stay of the

issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the

issues within the thirty (30) day appeal period. The Zoning

date of the hearing set above or presented at the hearing.

J. ROBERT HAINES

Baltimore County

Zoning Commissioner of

| • | | |
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| ouglas L. Kennedy, P.E. | • | John M. Cosaraquis, L.S. (I |
| lliam K. Woody, L.S. | KCW Consultants, Inc. | |
| | Civil Engineers and Land Surveyors
1777 Reisterstown Road | |
| · • | . Commercentre, Suite 175 . | • |
| | Baltimore, Maryland 21208 | # 216 |
| | (301) 484-0894 / 484-0963 | Itm# 216 |
| November 29, 19 | • • | _ |
| | TRACT PURCHASER:
CORPORATION | · |
| 250 Cer | nterville Road, Bld. 'F' | |
| Attn: | k, Rhode Island 02886 Ms. Judith Siegel 732-5430 | 51) |
| SA DECEMBER DECEMBER | IPTION TO ACCOMPANY | |
| PETITION FOR SI | | • |
| 12th ELECTION I | | |
| BALTIMORE COUNT | II, MARILAND | • |
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| 8 from the northw shown on said Plate east 143 80/100ths center line of a part a 14 foot alley the alley north 38 degres 52 minutes intended to be a the aforesaid south line of Block 8 so for a distance of 49 | thwesterly measured along the said sort resterly line of Leeway as now/laid and running thence north 62 degrees feet, part of which said distance is arry wall there situate to intersect there situate; thence binding on the screes 46 minutes 9 seconds west 49 71/20 tes 13 seconds west 134 73/100 ths feet along the center line of a party wall to the westerly line of Block 8; thence binding outheasterly on a curve to the left we be 2/100 ths feet to the place of beginning thereon being known as No. 2513 Yorkweet. | s 52 minutes 13 seconds intended to be along the the southwesterly line of outhwesterly line of said 100ths feet; thence southet, part of which distance there situate to intersect ing on said southwesterly with a radius of 765 feet g. |
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Towner, Maryland | MORE COURSE |

Posted for: Special Hearing

Petitioner: Landex Corpore from - Ronald Gajowski stur

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| VETERANS ATTENTION | j |
| THE MOST SENSATIONAL OFFER EVER MADE | |
| BRICK APARTMENT HOUSES | ŧ |
| 4 Individual Apartments In Each House | |
| EACH APARTMENT HAS | N. |
| LANGE LIVING ROOM SIZE IS FEET S INCHES WIDE BY 17 FEET S INCHES LONG. LANGE BEDROOM SIZE IS FEET S INCHES LONG AND 10 FEET S INCHES WIDE SEDROOM HAS INC SERVER TO S | |
| ENTINGE THE BATHROOM WITH BATHTUB AND BHOWER BATH AND LANGE LINER CLOSET | |
| HOT WATER HEATING PLANT WITH BEFANATE THERMOSTAT IN EACH APARTMENT. BEFANATE STORAGE ROOM IN BASEMENT FOR EACH AFARTMENT. LAUNDRY TURE AND TOKET IN BASEMENT, HARDWOOD FLOORS AND SUB FLOORS. | 11.00% |
| CHUNCHES OF ALL DENOMINATIONS, PLATGROUNDS AND HODERN SHOPPING CENTER HEARDY, AND A NEW MILLION DOLLAR MIGH SCHOOL WITHIN TWO PLOCES. SALT WATER BATHING BEACH WITHIN TIVE PUBLISHED RIDE. | |
| CENTER HOUSES SCIGHTLY LOWERS - L'RICE \$17,000.00 | |
| CONSTRUCTION OF THESE HOMES WAS SUFFRIVISED AND INSURED BY | 2 |
| FEDERAL HOUSING ADMINISTRATION IF YOU MAKE A CASII PAYMENT OF \$500.00 AND FINANCE YOUR MORTGAGE UNDER FILE. VEHERANS ADMINISTRATION APPROVED LOAN, YOUR INCOME, AND EXPENSES WOULD BE AS FOLLOWS. Your rent received from two superiments at \$45.00 [per months.] Your rent received from two superiments at \$45.00 [per months.] | |
| THESE ARE O. P. A. AFFROYED BENTA. PETITION TOTAL RECEIVED FER SIGNTH \$176.00 - | <u>- چين</u>
ر |
| YOUR MORTOAGE WOULD BE SIGNESS TOR 20 YEAR TERM YOUR MONTHLY PAYMENT ON THE MORTGAGE WOULD BE INTEREST FOR TIRST MONTH | |
| Balance of learning left to you after murigage payment | |
| COAL USED, 16 TONS AT \$12.00 PER TON | |
| DIVIDED BY 12 MONTHS, EQUALS PER MONTH. | |
| AMOUNT LEFT FROM MONTHLY HENT AFIEL PAYING MURICAGE AND ALL EXPERSES 1. \$ 22.15 (A. Add to this the amount you have paid off (arrei) on your moneye. | |
| OR YOU CAN LIVE IN ONE APARTMENT RENT THEE AND STILL HAVE A MICE INCOME IN THE SEE THE FUNNISHED SANITH APARTMENT 1ST SLADE 2514 TOPEWAY OF THE DAILY—SATURDAY—SUMMARS—12 MOUNTO 7.36 F. M. Take 26 ear to Dundalk and Etheric D. | |
| Take 26 ear to Dundalk and Liberty Parkway; walk to god of 2500 Lioch Liberty Parkway; to left on Leavny 1 block, Sample House on norms. | |
| JEROME J. GEBHART, Agens | |
| 2534 YOURWAY PHONE DUNDAUK 1701 | |

CERTIFICATE OF PUBLICATION

OFFICE OF Dundalk Eagle

4 N. Center Place P. O. Box 8936 Dundalk, Md. 21222

Zenny Connectors

State of Francy & Zenny
Tomon, Maryland 21204

004-2353
BETICE OF HEARING

The Zoning Commissions of Balti-mare County, by authority of the Zon-

ing Act and Regulations of Baltimer: County will half in public hearing in the property identified bases in R.C. s. 108 of the County Office Building, be-coted at 111 W. Cheespools Accuse in Turnia, Maryland 21204 on fish

Position for Special Rearing CASE BUSINER: 29-248-SPR

CASE BUMBER: 89-249-SPH
BE/S Yerkory, BAY BW of all
of Learney (2513 Yerkory)
12th Election District
7th Consentments District
Legal Devents:
Anneld Gojevents, at ux
Contract Purchaseria;
Landau Corporation
HEARING SCHEDULES:
THURSDAY, DECEMBER 25, 1988

ot 9:90 a.m. SPECIAL HEARING: Nonconforming

use of 2513 Yerkway floor aper

le the event that this Petition is

y need, a building permit may be is-need within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a

stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by

the date of the hearing set above or presented at the hearing.

J. ROBERT HAIRES December 8,

THIS IS TO CERTIFY, that the annexed advertisement of V. Robert Haines in the matter of Zoning Hearings - Case # E9-249-SPH - P.O. #07737 - REQ. #M20481 - 80 lines # \$40.00. was inserted in The Dundalk Eagle a weekly newspaper published in Baltimore County, Maryland, once a week successive weeks before the 19 $_{88}$; that is to say,

the same was inserted in the issues of Dec. 8, 1988

Kimbel Publication, Inc. per Publisher.

CERTIFICATE OF PUBLICATION

T NOTICE OF HEARING The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland 21204

December 8, 1988.

PO 07738

1091 M 20480 price \$ 35.63

TOWSON, MD., December 9, 1988 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Haines

John B. Gontrum, Esq.

Dennis F. Rasmussen

RE: Petitions for Special Hearing CASE NUMBERS: 89-249-SPH thru 89-264-SPH Your Client: Landex Corporation Date of Hearing: Thursday, December 29, 1988 at 9:00 a.m.

Dear Mr. Gontrum:

809 Eastern Boverlard

Essex, Maryland 21221

Please be advised that $$1,450.08^{\frac{1}{8}}$ is due for advertising and posting of the above referenced properties. All fees must be paid prior to the hearings. Do not remove the sign and post set(s) from the properties.

THIS FEE MUST BE PAID ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT

Please make your check payable to Baltimore County, Maryland and bring it to the Zoning Office, County Office Building, Room 111, Towson, Maryland 21204 fifteen (15) minutes before the hearings are scheduled

Please note that due to the number of signs to be returned, here will be no need for your client to remove and return the signs, as this

Very truly yours,

J. ROBERT HAINES Zoning Commissioner of Baltimore County

cc: Mr. Walter Stealey Ms. Judith S. Siegel

* \$ 90.63 each frogert

AFFIDAVIT OF NANCY CAPECCI

missioner will, however, entertain any request for a stay of the is-

suance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the

J. ROBERT HAINES
Zoning Commissioner of
Baltimore County
12/187 Dec. 8.

I, NANCY CAPECCI, hereby certify that I am over 18 years of age and am competent to testify as follows:

1. My husband and I first purchased 2528 Yorkway in 1946 and lived there from 1947 through 1962. We continued to own that property until 1985, but rented it between 1962 and 1985. I reacquired the property in 1987.

2. During the period of time that I lived at 2528 Yorkway, as well as the period that I was visiting the property on a weekly and sometimes a daily basis in my capacity as a landlord, I was acquainted with the other properties along Yorkway.

3. I have testified in Case Number 89-103 and have given an Affidavit in that case. My testimony and Affidavit are correct with respect to the facts recited. In Case Number 89-103-SPH I identified the flier, a copy of which is attached hereto and made a part hereof as part of the criginal advertising for the premises along the 2500 and 2600 Yorkway.

4. All of the apartment buildings in the 2500 and 2600 block of Yorkway were originally built prior to 1945 as four unit apartments. Some of the units had basement apartments or later added basement

5. I have also testified in Case Number 88-14-SPH before the Board of Appeals with respect to 2619 Yorkway, and feel competent to testify that all of these buildings which are the subject to the case here today were originally built prior to 1945 as four

> PETITIONER'S EXHIBIT 3A

unit apartment buildings and during the period in which I lived and leased my units these buildings were continuously and uninterruptedly used for at least four apartments.

I HEREBY CERTIFY, That on this product day of descentify, in the year one thousand nine hundred and eighty-eight, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared NANCY CAPECCI known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing Deed to be her act, and in my presense signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.



My Commission expires:

<u>AFFIDAVIT</u>

My name is Connie Ports and my address is Apartment B, 2607 Yorkway, Dundalk Maryland 21222. I first moved to the Yorkway area in 1963 and after leaving for a short while, I moved back again in 1971. I have acted as a manager for several of the apartment buildings in the 2600 block of Yorkway and at one time managed 2619 Yorkway. I testified before the Baltimore County Board of Appeals in Case No. 88-14 with respect to 2609 and 2619 Yorkway. It was my testimony at that time under oath, that I have been in all of the buildings along the 2600 block of Yorkway and that they were all identical as four (4) unit apartment buildings, except that some apartments had added an additional apartment in the basement. It was and is my testimony that these buildings were all constructed originally as four (4) bedroom unit apartments and during the familiarity with these apartments for the 1960's up to the present time, these buildings have all been used continuously and uninterruptedly with four (4) apartment units per building.

I solemnly declare and affirm that the above statements are true to the best of my knowledge, information and belief.

I hereby certify that on this , Notary Public for said State 1988, before me, ______, Notary Public for said State and County, personally appeared CONNIE FORTS, Affiant, and under solemnly affirmed under the penalties of perjury and under oath in due form of law that the contents of the foregoing paper are true to the best of her knowledge, information and

My commission expires: 71.90

LAW FIRM ROMADKA, GONTRUM & HENNEGAN

PETITIONER'S EXHIBIT 3B

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AFFIDAVIT

My name is James Thompson and I am the Zoning Enforcement Supervisor for the Department of Planning and Zoning in Baltimore County, Maryland. I have been employed in the Zoning Office as a Zoning Enforcement Officer and as a Zoning Inspector for 11 1/2 years. For the past 6 years, I have acted as the Chief of the Zoning Enforcement Section. Over these years, I have become acquainted with the apartment buildings on Yorkway in the Dundalk area of Baltimore County. Numerous violations have been filed against various units on the Yorkway complex for exceeding the permitted number of units within the given zone. A review of the zoning records on the numerous violations which we have researched over the past decade indicates that the apartment units on the 2500 and 2600 block of Yorkway were all built about the same time in 1943 and 1944. The units were all built as four (4) unit apartments. When zoning became effective in January in 1945, these apartment buildings were classified as a Class D residential zone. This zone allowed three (3) units or more per dwelling. However, the original regulations provided for non-conforming uses as follows:

"A lawful non-conforming use existing on the effective date of the adoption of these regulations may continue, provided, however, upon any change from such non-conforming use to a conforming use, or any attempt to change from such

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PETITIONERS EXHIBIT 4

ASSESSMENT

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discontinuance of such non-conforming use for a period of one (1) year, or in case a non-conforming structure shall be damaged by fire or otherwise to the extent of seventy five (75%) percent of its value, the right to continue to resume such non-conforming use shall terminate, provided, however, that any such lawful non-conforming use may be extended or enlarged to an extent not more than once again the area of the land used in the original non-conforming use". Section XI, 1945, B.C.Z.R. These non-conforming use provisions were later amended in the 1955 laws pertaining to zoning to the current Section 104 of the Baltimore County Zoning Regulations. As a result of the status of the Baltimore County Zoning Regulations prior to 1955, our office adopted a procedure that allowed four (4) units within a apartment building on Yorkway. Any units in a building in excess of four (4) had to be shown to exist prior to 1955. Our finding was based not only on the zoning history of the property and of the changes of the zoning regulations, but also on the physical confirmation of the buildings which were designed for two (2) units on a first floor with a full basement underneath. Conversations between the inspectors and the neighbors usually indicated that the buildings were always intended to be four (4) unit buildings.

The current zoning of D.R. 10.5 would not, however, allow this

I solemnly declare and affirm that the above statements are true to the best of my knowledge, information and belief.

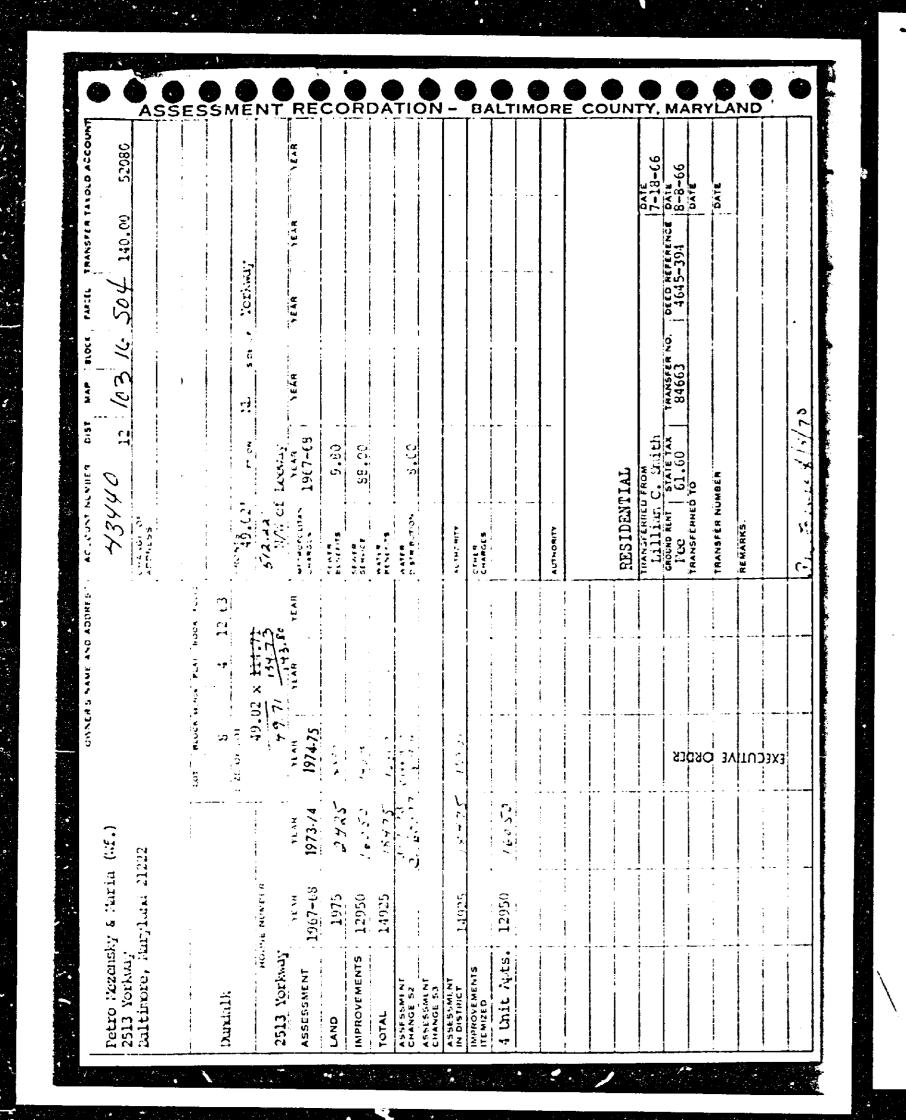
I hereby certify that on this 28 day of Dec 1988, before me, Jarnes thompson, Notary Public for said State and County, personally appeared JAMES THOMPSON, Affiant, and solemnly affirmed under the penalties of perjury and under oath in due form of law that the contents of the foregoing paper are true to the best information and

My commission expires: 7-1-00

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10/24/88:818.RG:ECC10239

IN RE: BEFORE THE ZONING COMMISSIONER PETITION FOR SPECIAL HEARING SW/C Yorkway and Leeway (2532 and 2534 Yorkway) 12th Election District 7th Councilmanic BALTIMORE COUNTY

BRIJDEO SHIVNARAIN, DANIEL ABBOTT, et al Petitioners * * * * * * * * *

Case No. 89-103-SPH

AFFIDAYIT

I, Nancy Capecci, hereby certify that I am over 18 years of age and competent to testify as follows:

1) 1. And I first purchased 2528 Yorkway in 1946 and lived there from 1947 through 1962. W continued to own that property until 1985, but rented it between 1962 and 1985. I reacquired the property in 1987.

2. During the entire period of time that I lived at 2528 Yorkway, as well as the period that I was visiting the property on a weekly and sometimes a daily basis in my capacity as a landlord, the property known as 2534 Yorkway consisted of five (5) apartment dwelling units. When we first moved in, it was 4 (four) apartment units with a sales\rental office down in the basement, but that office was converted to an apartment shortly after we moved in, and definitely prior to 1954.

PETITIONER'S
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All of the buildings in that entire area, where I have lived and frequented since 1946, including 2534 Yorkway, have been continuously rented and occupied with the exception of only partial and temporary vacancies normal and customary to multi-family rentals, up through the present time.

4. To the extent that I may have testified to further matters not contained herein at an open hearing on September 29, 1988 before the Deputy Zoning Commissioner for Baltimore County, my testimony would be the same as the testimony offered that day, and I specifically reaffirm, restate, and incorporate my testimony from that day into this Affidavit.

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON MY PERSONAL KNOWLEDGE THAT THE MATTERS AND FACTS STATED HEREIN ARE TRUE.

Sunberry Road Baltimore, Maryland 21222

3. I specifically recall my children playing with the children of families who lived in that basement apartment at 2534 Yorkway, and can state that I have frequently visited forkway

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area and these particular buildings between 1946 and the preand can state that same have been continuously rented and cupied with the exception of only partial and temporary vacar normal and customary to multi-family rentals, up through present time.

4. To the extent that I may testified to further : ters not contained herein at an open hearing on September 1988 before the Deputy Zoning Commissioner for Baltimore Cou: my testimony would be the same as the testimony offered that c and I specifically reaffirm, restate, and incorporate my t timony from that day into this Affidavit.

I SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES PERJURY AND UPON MY PERSONAL KNOWLEDGE THAT THE MATTERS AND FA STATED HEREIN ARE TRUE.

- 2 -

6819 Homeway Avenue Dundalk, Maryland 212

PETITION FOR SPECIAL HEARING N/S Yorkway, 225' E of Leeway

12th Election District Kenneth W. Martin, et ux, DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 86-290-SPH

. The Petitioners herein request a Special Hearing to determine whether or not approval should be granted for the non conforming use of [2609] Yorkway as a four apartment building since 1945, and furthermore, the non-conforming use of two additional apartments in existence since 1951.

Pursuant to the advertisement and posting of the above referenced property, a public hearing on the Petition was held on January 28, 1986, at which time one of the Petitioners testified that six apartments had been rented continuously since his purchase of the property in 1980. A witness testified that both basement apartments were occupied from spring to fall of 1957.

Two Protestants testified that the building was constructed for four apartments. One of the Protestants testified that the building was constructed in 1945; that in 1963 he was aware of one basement apartment; and that currently he can see a cat living in another basement apartment. The other Protestant testified that through the years, he gradually became aware that there were basement apartments in the neighborhood.

At the request of the Petitioner, the case was continued. The file indicates that the Petitioner would contact the Deputy Zoning Commissioner within 60 days to arrange a date to continue the case. The file includes copies of both a July and a September letter from the Deputy Zoning Commissioner asking that the Petitioner request either a continuation or a dismissal of the case. At this

such request has been not converged to the such request has been not

After due consideration of the testimony and evidence presented herein, in the opinion of the Deputy Zoning Commissioner of Baltimore County, it appears that 2609 Yorkway enjoys a non-conforming status as a four apartment building, but the date of the addition of two basement apartments and whether or not they hare been used continuously as such, has not been proven.

Therefore, IT IS ORDERED by the Deputy Zoning Commissioner of Baltimore County this 16 day of October, 1986, that the herein request for the nonconforming use of 2609 Yorkway as a four apartment building since 1945 is hereby GRANTED, from and after the date of this Order. It is FURTHER ORDERED, that the request to extend the non-conforming use to the two basement apartments in existence since 1951, for a total of six living units, is hereby DENIED.

14' CONC ALLEY _C2'CONC WALK-CONC PORCHY 2 STORY APARTMENT Brdg ***2513** TWALK - TO NORTHWESTERLY A.765.00' L.49.02' SIDE OF LEEWAY YORKWAY

10/24/88:819.RG:ECC10239

PETITION FOR SPECIAL HEARING *
SW/C Yorkway and Leeway
(2532 and 2534 Yorkway)

Petitioners

apartment dwelling unit in the basement.

12th Election District

7th Councilmanic

up to the present.

, BRIJDEO SHIVNARAIN, DANIEL ABBOTT, et al

PETITIONER'S

AFPIDAVIT

there for approximately two (2) years. We attempted to purchase

but were unable to do so and instead rented the property. We

then moved to 6918 Homeway, very nearby to this apartment neigh-

borhood, and continued to frequent the Yorkway area to visit

family and friends over the course of the next forty (40) years

Yorkway, an end of group, in that same originally contained four

(4) apartment dwelling units with a sales office in the basement,

which in 1946 or shortly thereafter, was converted to a fifth

Years of age and competent to testify as follows:

I, Marge Capecci, hereby certify that I am over 18

1. I first lived at 2526 Yorkway in 1945 and lived

2. I specifically recall the property known as 2504

ZONING COMMISSIONER

BALTIMORE COUNTY

Case No. 89-103-5PH

PART OF BLOCK NO. 8 PLAT NO. 4 OF DUNDAILY" C.W.B. JR. 12 FOLIO 63

(40'WIDE)

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Judith S. Siegel, President 250 Centerville Road Building Six Warwick, Rhode Island 02886

> RE: Case Numbers 89-249-SPH through 89-264-SPH - Yorkway

Upon review of the documentation which you have submitted in the above referenced cases supporting the evidence of a nonconforming use in the 16 locations on Yorkway which are the subject of the above referenced cases, I locations on Yorkway which are the subject of the above referenced cases, I am satisfied that if all of the dwellings were constructed with four dwellings prior to January 2, 1945 that obviously an apparent nonconforming use existed at one time. Due to the extreme emergency of your mortgage obligations prior to December 31, 1988, I will provisionally approve the building permits subject to a final determination upon presentation of evidence in the hearing on December 29th. The 16 cases have been advertised and a hearing will occur on the 29th which will allow any protestants to provide any evidence in opposition to the existence of the protestants to provide any evidence in opposition to the existence of the nonconforming use.

> Very truly yours, J. Robert Haines

| ************************************** | <u> </u> | | | | | |
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| | - Committee | TYPE OF WATER SUP | | E. RESIDENTIAL OF | ILY | |
| D. TYPE UP I | CONSTRUCTION 3. STRUCTURE STEEL | -1 | EXISTS PROPOSED | SINGLE FAMILY UNIT | | |
| 2. WOOD FRAME | 4. REINF. CONCRETE | 2. PHIVATE SYSTEM TO | | MULTI FAMILY UNITS | | |
| 1. 🔲 ans | 3. ELECTRICITY 4. OOAL | 1. YES 2. HO | | Z. EFFICIENCY INO SEPARATE BEDROOMS) | | |
| | WAGE DISPOSAL | 1. NO 2. YES - WITH | AIR POLLUTION CONTROL | 2. ONE BEDROOM 4. TWO SEDROOMS | | |
| 1. To Public Sener
2. Private System | EXISTS PROPOSED | NO. OF ELEVATORS TO BE | E INSTALLED | S. THREE BEDROOMS OR MORE
S. TOTAL NO, OF BEDROOMS | | |
| | C EXISTS PROPOSED Y EXISTS PROPOSED | ENCLOSED OUTO | | 7. TOTAL NO. OF APARTMENT | <u> </u> | |
| F DIMENSIONS | | OMS TICHTCHEMS | G. TRUE AND THAT M | LY READ THIS APPLICATION AND KNOW THE SAM
) DOING THIS WORK ALL PROVISIONS OF THE SA
RIATE STATE REQUILATIONS WILL SE COMPLIE | ALTIMORE COUNTY | |
| GARBAGE
DISPOSAL | | | HEREIN SPECIFIED | OR NOT AND WILL REQUEST ALL REQUIRED IN | SPECTIONS | |
| BUILDING SIZE - LA
PLOOM AREA | | HEIGHT | COMPANY | | DATE | |
| 18 170 × 13 | 4/1/3 GENTER LIN | E SETRACIES (FROM STREET CENTER) TREET SIDE STREET | ADORESS | CITY STATE | | |
| PROPERTY FRONT | SIDE ST | REET REAR | SIGNATURE OF APPLICAN | AGENT | PHONE | |
| SETBACKS YE | COMMEN | LOT NUMBERS | MAKE CHECKS | S PAYABLE TO BALTIMORE COUNTY MARYL
RECEIPT NO. DEL | AND | |
| EXISTING BLDGS | | TITION NO. W DATE | AGENCY | APPROVAL SIGNATURE | DATE | |
| INFORMATION
ABSESSMENT LAND | Suepivical | -249-SAY | PRELIMINARY
INSPECTION
ZONING | Mith find | ZOD | |
| IMPROVEMENTS A A | H () | LINE FOLIO | PLANNING | Tagety time | 11/29/5 | |
| | <u> </u> | 112 163 | PUBLIC SERVICES HEALTH DEPARTMENT CONSTRUCTION | after Ward OK to fil | 2 4 BEA | |
| | (OA) | | PLANE REVIEW | months pring | 11/67 | |
| INVESTIGATION | FEE | NO PERMIT | FEES REPUNDED | CCUPANCY FEE 55.5 | | |
| | | | FIRE | and W. Smide | C. H. J. | |
| • | | | 2 | PINA | re) ' | |

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

J. Robert Haines TO Zoning Commissioner Pat Keller, Deputy Director
FROM Office of Planning and Zoning Landex Corporation
Zoning Petition Nos. 89-249-X thru 89-264-X

The applicant is requesting a special hearing to establish four apartment units within 19 buildings, the majority of which constitute York Park as shown on the applicant's site plan dated October 20, 1988. It is not clear from the applicant's submittal if buildings 2615, 2609, 2527 and 2529 are included in this request. Baltimore County has been involved with various improvements to this project. Money has been utilized in the past to rehabilitate and upgrade apartments within this project. There has also been an effort to clean up the railroad right-of-way that is located along the rear of block No. 9. Staff has no detailed comments or recommendation regarding this request.

